

REMARKS

I. Status of the Claims

Claims 133-139, 141-148, and 152-158 were pending. With entry of this amendment, claims 133, 136, 141, and 154 will be amended and claims 133-139, 141-148, and 152-158 will be pending. The proposed amendments to claims 133 and 141 incorporate the subject matter of claims 137-139 and 146-148, respectively. Support for those amendments is found in original claims 44-49, and throughout the specification, for example, on page 17, lines 10-16. The proposed amendments to claims 136 and 154 clarify that the origin of replication is from plasmid R6K. Support for that amendment is found in original claim 2, and throughout the specification, for example, on page 13, lines 22-25. The proposed amendments do not add new matter.

II. Rejection Under 35 U.S.C. § 112, First Paragraph

The Office rejects claims 133-136, 141-145, and 152-158 under 35 U.S.C. § 112, ¶1, as allegedly lacking adequate written description. Office Action, page 2.

Applicant respectfully traverses this rejection for the reasons set forth in the March 30, 2007, response. However, claims 133 and 141 have been amended to recite that the at least one mutation is “chosen from the 114C mutation, the 100B mutation, and the 201C mutation.” The amendment of claims 133 and 141 is solely to expedite allowance of this application and should not be construed as acquiescence to the rejection of record. Applicant reserves the right to file a continuation application.

Claims 137-139 and 146-148, which recite the same mutations as now incorporated into claims 133 and 141, were not included in the rejection. *Id.* In addition, the Office noted that claims 137-139 and 146-148 would be allowable if rewritten in

independent form. *Id.* at 5. Accordingly, the Office has indicated that the rejection is inapplicable to the pending claims. Its withdrawal is therefore respectfully requested.

III. Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 136 and 154 also stand rejected under 35 U.S.C. § 112, ¶2, as allegedly indefinite. Office Action, page 4.

Applicant respectfully traverses this rejection as well. Nevertheless, the proposed amendments to claims 136 and 154 remove the “derived from” language and thus clarifies that the origin of replication is from the R6K plasmid. Applicant respectfully requests the Office to withdraw the rejection.

CONCLUSION

The proposed amendments do not raise new issues or necessitate additional search because they incorporate allowable subject matter into the independent claims and merely clarify previous claim language. Further, should the Office dispute the patentability of the pending claims, entering the amendment would place the application in better form for appeal. Accordingly, Applicant requests entry of this amendment under 37 C.F.R. § 1.116 and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
Steven P. O'Connor
Reg. No. 41,225